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# Developing an EU criminal records database and disqualification register

Legal, politico-institutional & practical  
feasibility

2001/GRP/024

The Hague, Europol - May 17<sup>th</sup>, 2002

## Structure

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- > comprehensive approach
- > methodology
- > contents
- > organisation
- > access
- > use
- > required EU legal instruments

## Comprehensive approach

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- > addressing two goals 'Mutual Recognition Plan'
  - > (individualisation of) sanctions
  - > disqualifications related to criminal acts
  - > not: pending prosecutions
    - > IRCP project 2001/GRP/025
    - > 'Finding the best place for prosecution'
- > not limited to specific type of offence
  - > not only: sex offenders, money laundering, public procurement, ...
  - > general scope

## Methodology

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- > research team
- > literature
  - > previous CoE work
  - > existing (scientific) EU reports and documents
- > national experts
  - > reflection paper + questionnaire
  - > round-table
- > replies and comments national experts
- > bilateral working meetings
  - > European Commission, Europol, Eurojust, Interpol, Olaf
- > round-table
- > final report (available in book-form to all partners)

## Contents

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- > final judicial decisions
  - > exceptions
    - > judgements in absentia
    - > ordonnances pénales
  - > ordnungswidrigkeiten
- > related to criminal acts
- > ruled by national and foreign authorities
  - > Article 22 1959 CoE MLA Convention
    - > decisions of CoE countries on EU nationals
    - > decisions of EU MS on third country nationals
- > regarding offences
- > committed by natural or legal persons

## Organisation

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- > approach
- > search methods
- > data protection
- > translation

## Approach

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- > 3 options in 'Mutual Recognition Plan'
  - > bilateral exchange of information
  - > network of national registers
  - > centralized criminal records database
- > preferred option (combined approach)
  - > improving bilateral exchange by EU initiative
    - > structural
      - > frequency higher than annually (monthly?)
    - > case-based
      - > EU model form?
  - > decentralized detailed information
  - > central index system: labelling-technique
  - > use of existing IT facilities (Europol, SIS, EIJ, Eurojust)

## Search methods

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- > names
- > categories
  - > labelling-technique
- > additional fields?
  - > court type
  - > date of decision
  - > gender
  - > age offender
  - > ...



## Data protection

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- > Joint Supervisory Data Protection Body
  - > as for SIS, Europol, CIS
  - > Council decision 16 October 2000
    - > integration secretariat into existing common secretariat SIS-Europol-CIS JSDPB's
- > notification of possible disclosure
  - > use for LE purposes
    - > no notification
    - > only right to correction, deletion, ...
  - > use for employment purposes
    - > notification a priori: in vacancy announcement
- > rehabilitation - erasure of entries
  - > EU standards to be agreed

## Translation

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- automatic translation of
  - names
  - categories/labels
  - additional fields
- Interpol
  - English-French-Spanish-Arabic
  - no translation software
  - English processing language
- Europol software (2002)
  - to be supplemented with more categories of crimes

## Access (1)

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- > authorities concerned with criminal investigations
  - > MS
  - > EU-bodies (Europol, Eurojust, Olaf)
  - > third bodies (Interpol)
  - > third states
    - > no access
    - > providing of contacts
    - > providing of information
      - > through MS
      - > direct request to ECR
    - > privileged partners
      - > Article 28-36 TEU convention as criterion?

## Access (2)

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- > employers in vulnerable professions
  - > who?
    - > vulnerable professions
      - > public professions (police, judiciary, government, ...)
      - > educational professions
      - > medical professions
      - > financial professions
      - > transportation offences
      - > trustworthy telecommunication professions
  - > how?
    - > EU-certificate of good conduct
  - > what?
    - > disclosure related to profession

## Use

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- individualisation of the penalty
- facilitation work EU LE bodies
- active alert
  - possible add-on (patch) to the ECR
  - value of request to take action in terms of
    - execution sentence
    - supervision conditionally convicted/released
  - system comparable to
    - SIS Article 95 notice
    - Interpol red notice

## Required EU legal instruments

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- improvement bilateral information exchange
  - more frequent structural exchange
  - EU model form to be used on case-by-case basis
  - instruments: Council decision
- establishment European Criminal Records Database
  - instrument: convention (trend to decision)
- introduction principle of international recidivism
  - framework decision
- introduction EU certificate of good behaviour
  - framework decision